



## *UAB Supervisor Resource Guide* **Fair Labor Laws and Policies**

### **Because We Own It**

*UAB's adherence to fair labor laws and policies enables our employees to balance work and life with fair compensation.*

### **Because You Own It**

*You learn about fair labor laws and UAB's policies, know who to ask with questions and assist your employees with questions..*



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## A SUPERVISOR'S RESPONSIBILITY

As a supervisor, it is your responsibility to understand governing Fair Labor laws and UAB's policies. In addition, **you should know the status of each of your employees based on the Fair Labor Standards Act (FLSA)**. If you are unsure about your employee's status, contact [your HR Consultant](#) for assistance.

Federal law requires that you manage the time of nonexempt and exempt employees differently. You should understand how this affects the way you record time off and overtime for each employee.



Talk with your employees about Fair Labor laws and policies and answer any questions. Help them to understand that FLSA requires that certain positions record time differently. Remember, Fair Labor laws are designed to protect employees from abuse and to ensure fairness.

Your employees should be able to understand and adhere to the laws and policies,

You, as a supervisor, must keep accurate and precise records and follow all guidelines. Use this guide as a reference to help you and your employees remain in compliance.

**DISCLAIMER:** This resource guide is for educational purposes only and is not intended as an exhaustive discussion of the Fair Labor Standards Act (FLSA) and other policies. In addition, since each situation can vary and the applicability of federal and state laws is based on facts and circumstances, the applicability of laws and policies in your situation may vary. Detailed information can be found online at <https://www.uab.edu/humanresources/home/compensation/fair-labor-standards-act> This guide is maintained by UAB Human Resources.

**Please direct FLSA questions to:**

[Your Human Resources Consultant](#)

## FAIR LABOR LAWS AND POLICIES AT UAB

Fair Labor laws and policies ensure that every employee is treated fairly and accurately compensated for their time worked. Fair labor practices include the federal Fair Labor Standards Act (FLSA) as well as some UAB policies.

The FLSA, which is enforced by the U.S. Department of Labor (DOL), distinguishes employees as nonexempt or exempt.

### Key Terms

**Nonexempt** – employees who are entitled to minimum wage and overtime pay (at UAB, nonexempt employees are paid on a biweekly/hourly basis)

**Exempt** – employees who are not entitled to minimum wage or overtime (at UAB, exempt employees are paid on a monthly/salaried basis)

Bi-weekly/hourly and monthly/salaried refer to the employees' defined pay and pay schedule – not their job classifications.

This guide is divided into three sections – general FLSA information, managing nonexempt employees and managing exempt employees. If you have questions, please speak with your HR Consultant.

## GENERAL INFORMATION

### The FLSA Covers

- The federally mandated minimum wage
- Overtime eligibility
- Overtime pay
- Recordkeeping
- Child labor standards
- Breaks and facilities for nursing mothers

The FLSA does not require employers to pay or provide employees with any of the following:

- Vacation time
- Sick time
- Personal leave time
- Holidays
- Severance pay
- Meal times
- Rest periods or breaks
- Premium pay for weekends or holidays
- Pay raises or fringe benefits

The FLSA applies to all UAB employees. The FLSA regulations set the standards that the UAB Compensation Department uses to determine whether a job is exempt or nonexempt.

The status for most positions you manage has already been determined. However, ***if you need to create a new position or change the responsibilities for one of your current positions***, contact your Human Resources Consultant to help you get started.

## MANAGING NONEXEMPT EMPLOYEES ACCORDING TO THE FLSA

### Nonexempt Employees General Information

- Are paid by the hour
- Receive at least the federally mandated minimum wage, which is currently \$7.25 per hour
- Receive biweekly pay at UAB
- Are entitled to overtime pay (that is, one and one-half times their hourly pay rate) when they work more than 40 hours in a workweek



The only exception to this is when employees take accrued paid time off for absences such as vacation and sick leave. UAB is not required to pay nonexempt employees for days when we do not require them to be at work even if it is part of their regular schedule.



### Examples of Nonexempt Positions

- Customer service
- Skilled trades
- Service maintenance
- Technical
- Clerical



## Nonexempt Pay When Work-Related

Nonexempt employees must be paid for these work-related activities.

### IF

<b>Waiting times</b>	The employee is required to wait to answer phones, greet visitors, etc. as a part of the job before, during, or after work
<b>On-call time</b>	The employee must restrict their activities and/or the distance to and from work
<b>Commuting</b>	The employee picks up supplies on the way to or from work
<b>Meal periods</b>	The employee's breaks are cut short <b>OR</b> employees work through or during the lunch period
<b>Training and meetings</b>	The employee's attendance is mandatory or directly related to the employee's job
<b>Uniforms or clothing changes</b>	It is necessary for the job – e.g., putting on or taking off Personal Protective Equipment (PPE)
<b>Travel</b>	It is job-related during regularly scheduled work hours (e.g., travel to and from work sites)
<b>Pre- and post-work activities</b>	The employee is preparing the area for business, turning on machines (including booting a computer), setting up a work stations, etc. as well as shutting down those same procedures for the day



For example, parking in a remote parking lot and taking the UAB-provided shuttle service to and from work is not considered compensable work time. It is the employee's choice as to where to park and how to get to and from work.

If an employee is traveling around campus and to remote UAB areas during his/her assigned work time as a part of his/her daily job, it is considered hours worked and is compensable.

All travel **must receive prior approval** by a supervisor or manager. If you have questions about nonexempt employees and travel, ask your HR Consultant.

## Breaks and Meals

UAB has a policy regarding work breaks, [Work \(Rest\) Breaks and Meal Periods HR Policy 621](#).

If the workload permits, work breaks are allowed, but they are not guaranteed. Employees should be aware that taking work breaks depends upon the department involved and whether normal work can be continued while employees take breaks.

Where work breaks are allowed, they are limited to two paid, 15-minute breaks per shift and typically may not be accumulated to allow employees to leave work early or to extend or replace a meal period.

The University generally provides the opportunity for an uninterrupted meal period of no less than 30 minutes. The actual time and length of the meal period will be scheduled by the supervisor.

Meal periods are considered personal time, and employees are encouraged to leave the immediate work area in order to eat and relax. For nonexempt employees, meal periods are not considered work time for pay purposes.

Nonexempt employees must punch (badge) out/in for meal periods. Prior authorization is required before working during a meal period. If you work during your meal period, this time should be counted as work hours.

## Overtime Pay for Nonexempt Employees

The FLSA applies to ALL nonexempt employees. Overtime must be paid at one and one-half the employee's regular hourly rate for ANY hours/minutes worked over 40 in a workweek.

Managing nonexempt employees requires tracking their time both accurately and consistently. Not paying nonexempt employees overtime for anything over 40 hours is most often the source for DOL audits.

## Off-the-Clock Work



Nonexempt employees are NOT allowed to work "off-the-clock" hours. This includes working during or through lunch breaks, coming in early, staying late, or taking job-related calls, or emails outside normal work hours without pay. (Please see [UAB Smartphone Use for Nonexempt Employees](#).)

Nonexempt employees must report all time worked and be compensated for it – approved or not. Those who continue to work "off-the-clock" time could be subject to disciplinary action.

## Compensatory (Comp) Time

Compensatory time, or "comp time," is **NOT** allowed at UAB. A nonexempt employee must be paid for ALL hours worked plus overtime if he or she exceeds 40 hours during a workweek.

## Time and Recordkeeping for Nonexempt Employees

Both **accurate** and **precise** time tracking and recordkeeping are critical for nonexempt employees to be compliant with the FLSA regulations

### *Time, Entry, and Labor (TEL) Documents*

UAB's Time, Entry, and Labor document, TEL, is not a true time or recordkeeping system. It is used to document nonexempt employees' TOTAL daily work and benefit hours. This information is then used to process the biweekly payroll.

For this reason, UAB is now using KRONOS as our timekeeping system.

### *KRONOS*

For more information, please visit the Timekeeping website at [www.uab.edu/timekeeping](http://www.uab.edu/timekeeping).

For a limited time, UAB will be using both TEL and KRONOS to ensure the accuracy of nonexempt employees' worked hours. This is a safeguard to make sure that they are paid correctly while being compliant with the FLSA regulations.

## Punching In/Out for Another Employee

UAB's policy states, "Falsification of time or unauthorized submission is a serious offense and may result in termination. "

[See Policy 208 – Time Tracking and Recordkeeping](#)

## Other Recordkeeping Information

You should make sure that employees keep accurate records of all time worked and inform UAB of any changes to personal information (**example:** name change, address, phone number).

### QUICK TIPS TO REMEMBER

- Require employees to punch in and punch out at the appropriate times
- Check to ensure that nonexempt employees' time and recordkeeping documents are accurate and precise
- Document unauthorized overtime
- Document and discipline (if necessary) employees who continue to work "off-the-clock" hours

The law requires you to pay for all work your employees perform, so you need to be clear about your expectations.

### **Overtime requires prior approval!**

However, if an employee works overtime without permission, UAB is required to pay the time. Disciplinary action may be required if the unauthorized overtime continues.

While it is your employee's responsibility to record their time accurately, you have a responsibility to check time records for accuracy.



## Breaks and Facilities for Nursing Mothers Who Are Nonexempt Employees

Departments are required to provide an appropriate location and give breaks, as necessary, to nursing mothers to express breast milk for her nursing child up to one year after the child's birth.

UAB is required to provide an area, other than a bathroom, to express milk. The area must be:

- Shielded from view
- Free of interruptions from coworkers or the public
- Readily available to the employee

Employees who use work breaks to express milk must be compensated in the same way that other employees are compensated for work breaks.

A listing of all the lactation centers located at UAB can be found at [www.uab.edu/women/lacationcenters](http://www.uab.edu/women/lacationcenters).

## MANAGING EXEMPT EMPLOYEES ACCORDING TO THE FLSA

### Exempt Employees

Exempt employees are paid a salary, receive monthly pay at UAB, and are not entitled to overtime pay.

Examples of jobs that are considered exempt are:

- Financial Analysts
- Executives
- Some positions that require advanced degrees

Exempt employees must be paid their regular predetermined salary each month. There are exemptions to when exempt employees may not be paid. For those exemptions, please consult your HR Consultant.

### Breaks and Meal Periods

UAB has a policy regarding work breaks, [Work \(Rest\) Breaks and Meal Periods HR Policy 621](#).

“If the workload permits, work breaks are allowed, but they are not guaranteed. Employees should be aware that taking work breaks depends upon the department involved and whether normal work can be continued while employees take breaks.

Where work breaks are allowed, they are limited to two paid, 15-minute breaks per shift and typically may not be accumulated to allow employees to leave work early or to extend or replace a meal period.

The University generally provides the opportunity for an uninterrupted meal period of no less than 30 minutes. The actual time and length of the meal period will be scheduled by the supervisor.

Meal periods are considered personal time, and employees are encouraged to leave the immediate work area in order to eat and relax.

### **Overtime Pay for Exempt Employees**

Exempt employees are not eligible for overtime pay under FLSA. You should let your exempt employees know that it may be necessary for them to work additional hours outside their regular schedules to meet business needs without additional pay.

### **Compensatory (Comp) Time**

Compensatory time, or “comp time,” is NOT allowed at UAB.

### **Time and Recordkeeping for Exempt Employees**

While FLSA does not require UAB to keep records for exempt employees, UAB does keep wage and personal information about all UAB employees as a good business practice and in compliance with other laws and regulations.

FLSA does not allow UAB to track an exempt employee’s hours worked unless it is related to a project or for effort reporting. Requiring your exempt employees to track their arrival and departure time could result in a complaint, which may change the status of that position and result in penalties for UAB.

#### *Regularly Scheduled Hours*

You are allowed to require your exempt employees to keep a regular schedule. You can also implement across-the-board schedule changes if necessary.

#### **QUICK TIPS TO REMEMBER**

- Tracking exempt employees’ hours worked – This is **NOT** allowed by the FLSA and could result in a status change as well as penalties for UAB.
- Exempt employees should record requested time off that is *more* than four hours, but not less.
- Allowing “comp” time for exempt employees – Compensatory time is **not** allowed for exempt employees.

### *Time Off*

Since exempt employees are not required to track their hours worked, they do not need to record requests for time off that is less than four hours (example: doctor's appointments, teacher's meetings.)

### **Other Recordkeeping Information**

Exempt employee should inform UAB of any changes to personal information (**example:** name change, address, phone number).

### **Breaks and Facilities for Nursing Mothers who are Exempt Employees**

Departments are required to provide an appropriate location and give breaks, as necessary, to nursing mothers to express breast milk for her nursing child up to one year after the child's birth.

UAB is required to provide an area, other than a bathroom, to express milk. The area must be:

- Shielded from view
- Free of interruptions from coworkers or the public
- Readily available to the employee

Employees who use work breaks to express milk must be compensated in the same way that other employees are compensated for work breaks.

A listing of all the lactation centers located at UAB can be found at [www.uab.edu/women/lacationcenters](http://www.uab.edu/women/lacationcenters).

## **IN CLOSING**

UAB must comply with federal and state regulations as well as its own policies and procedures. If you have any questions, please seek guidance from [your HR Consultant](#).

## APPENDIX A – FLSA DEFINITIONS

Exempt	Positions that are exempt from overtime provisions according to the Fair Labor Standards Act (FLSA).
Hours worked	Nonexempt employees must be paid for all hours worked in a workweek. This includes all time an employee must be on duty, or on the employer’s premises or other assigned place of work from the first principal activity to the last principal activity. Also included is any additional time that the employee is allowed to work. <b>(Example: suffered or permitted work)</b>
Nonexempt	Positions that are not exempt from overtime provisions according to the Fair Labor Standards Act (FLSA).
On-call Time	Time where an employee is required to remain on UAB’s premises in case they are needed to meet the needs of the organization. <b>(Example: inclement weather)</b>
“Off-the-clock” time	Nonexempt employees are NOT allowed to work “off-the-clock” hours. This includes working during or through lunch breaks, coming in early, staying late, or taking job-related calls, or emails outside normal work hours without pay.  Nonexempt employees must report all time worked and be compensated for it – approved or not. Those who continue to work "off-the-clock" time could be subject to disciplinary action.
Travel Time	Travel time varies across different circumstances. Travel time is usually paid to nonexempt employees with the following exceptions: <ul style="list-style-type: none"> <li>• Normal travel time from home to a place of work</li> <li>• Travel by plane, train or bus that is outside the normal work hours, but the employee performs no work and is free to relax</li> </ul> Travel time is considered part of the job for exempt employees. Always consult your HR Consultant or HR Compensation with questions about travel time.
Waiting Time	Time that an employee is required to be unavailable for other activities because they are waiting to work.
Workweek	A workweek is a period of 168 hours during 7 consecutive 24-hour periods. For purposes of minimum wage and overtime payment, each workweek stands alone. You cannot average 2 or more workweeks.  University work week – Sunday 12:01 a.m. through Saturday 12:00 a.m.  Hospital work week – Sunday 7:00 a.m. through Sunday 6:59 a.m.

## APPENDIX B – OTHER AVAILABLE RESOURCES

### Policies and Procedures, Handbooks, and Specific Policies of Interest

- [Policies and Handbooks](#)
- [Time Tracking and Recordkeeping – HR Policy 208](#)
- [Work \(Rest\) Breaks and Meal Periods – HR Policy 621](#)
- [UAB Smartphone Use for Nonexempt Employees](#)

### Help with Difficult Conversations from Lynda.com Courses

UAB is in the process of providing benefit-eligible campus and hospital employees access to a new resource, Lynda.com online learning. Roll out is planned for fall 2016. Because you are a manager of exempt employees who will be moving to nonexempt status soon, you have been selected for early access to Lynda.com, an online learning resource. Here are your login instructions:

- Go to <http://www.Lynda.com> (We suggest using Internet Explorer 11, Safari 8, Google Chrome 41, or Firefox 35 or later)
- Click the **Sign In** button on the top right
- Select **Sign in with your organization**
- Enter **UAB** and click **Continue**
- Sign in with your UAB Blazer ID credentials via *UAB Central Authentication System*

**NOTE:** If you have had an account with Lynda.com before, answer **YES** to the question, “I have had an account.” so that your historical data will be imported. This is a one-time opportunity to have your history moved.

For any questions, or comments/feedback about Lynda.com, contact the Employee Learning Help Desk at 205-996-4444.

## **Recommendations for FLSA Exempt to Nonexempt Conversations**

If you are a supervisor or manager looking for assistance on how to have the conversation with your exempt to nonexempt employee, we recommend the following:

- **Having Difficult Conversations (Author Britt Andreatta)**
  - Section 4, *Being Prepared* (about 4 minutes)
  - Section 4, *Opening the Conversation* (about 4.5 minutes)
- **Effective Listening (Authors Brenda Bailey-Hughes and Tatiana Kolovou)**
  - Section 3, *Effective Listening Behaviors* (< 15 minutes)
- **Working with Difficult People (Author Lisa Gates)**
  - Section 3, *Working with Difficult People* (< 4 minutes)

For any questions, or comments/feedback regarding the content, contact your HR Consultant.